

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF DALE SCHRUBEN)	APPEAL NO. 06-A-2108
AND NANCY NAGY from the decision of the Board of)	FINAL DECISION
Equalization of Fremont County for tax year 2006.)	AND ORDER

RESIDENTIAL LAND APPEAL

THIS MATTER came on for hearing October 24, 2006, in St. Anthony, Idaho, before Board Member David E. Kinghorn. Board Member Lyle R. Cobbs also participated in this decision. Appellants Nancy Nagy and Dale Schruben appeared at hearing. Assessor Ivel Burrell and Appraisers Kent Lords and Bruce Hill appeared for Respondent Fremont County. This appeal is taken from a decision of the Fremont County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RP08N42E282551A.

The issue on appeal is the market value of a rural residential land.

The decision of the Fremont County Board of Equalization is modified.

FINDINGS OF FACT

The assessed land value is \$92,110. Appellants request the land value be reduced to \$40,000. The assessment valued the first acre of subject land as a water-influenced lot at \$35,000. The remaining (excess) 4.29 acres were valued at \$13,312 per acre or \$57,110.

The subject property is 5.29 acres fronting on the Fall River. The location is rural with very few service amenities available. There is a private well and septic system.

Appellants claim the subject should be compared to rural undeveloped land rather than developed land. This was because the subject land does not have close access to power or telephone lines, city water or sewer, road services, or mail service. Some County data was taken from the Henry's Fork area which Appellants objected to as not comparable. Henry's Fork was noted to have an international reputation for trout fishing, which was contended to make it a more desirable building area with faster rising real estate prices. By comparison, much of the

area surrounding subject is not expected to be developed because of cliff land and wet lands not suitable for building. Taxpayers presented color photographs to demonstrate the rural nature of the area surrounding subject.

Four land sales were referenced by Appellants. They were located between a quarter mile and three miles distant with sale dates between two and three years old. These were the only current sales Taxpayers found in subject's more immediate area:

Designation	Market Price	Acres	\$ Per Acre	Aspects
Subject	Assessed Value \$92,110	5.29	\$17,412	water front
Fall River Property No.1	\$30,500	5.15	\$5,922	land (not water front)
Fall River Property No. 2	\$50,000 - (these two parcels sold together)	1.94		water front
Fall River Property No. 3		1.15	\$16,181 (total 3.09 acres)	land
Wayne C/Davis	\$540,000	141.00	\$3,829	some water front

Appellants determined an overall average per acre of \$8,600 and the average per acre for water front sales at \$10,005. Appellants claim an average of \$8,142 would be equitable for subject, less 10% for the lack of electrical and telephone service, public sewer, road maintenance and mail delivery. These amenities were available in all the above sale properties, however are not present with subject.

The County inquired about subject's last sale price in 2001 and the information would not be disclosed.

Respondent submitted an aerial photograph of subject indicating its location and river frontage. The County Appraiser explained subject is water-influenced and that waterfront properties are in demand. It was noted there are few good comparable sales in the immediate

neighborhood. It was explained when that is the case, the Assessor must look for sales like the the subject in other locations.

Respondent noted river front properties are typically valued based on water influence. Thirteen water-influenced sales were presented by the County and considered in valuing the subject land. The price per acre for these sales ranged from \$16,000 to \$102,081. Respondent did not have sale information indicating different values for waterfront based on location.

The County exhibits included a map and information sheet listing subject's characteristics.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Both parties presented market information. Market value is the standard for property tax assessment purposes. Idaho Code § 63-201(10) provides:

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

For a land valuation question like here, reference to the recent prices paid for comparable property is considered good evidence of value. Location is a key factor of comparability. Older price information should be adjusted for the difference in time. Though multiple comparable land sales are available, they were not always current (e.g. last 6 months) or proximate such as along the same stretch of river. Many sales required adjustment for differences in size or other characteristics. These types of considerations were discussed and analyzed by the parties and

in the Board's judgment developed some mixed or less-than-conclusive results. However, the emphasis on available sales information was certainly correct.

Ultimately, the Board is persuaded by some of Appellants' case, particularly in relation to location, and believes an adjustment to the assessed value of subject is warranted. Under the circumstances we hold more attention should be given to the more immediate sales, albeit with consideration for time of sale and differences in property characteristics. The full claim of \$40,000 does not appear reasonable to us in light of the full record of price information. As did the County, we believe some consideration of more distant sales is appropriate given the scarcity of more proximate and recent market activity. Therefore, the decision of the Fremont County Board of Equalization will be modified and the value of subject property set at \$85,561.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Fremont County Board of Equalization concerning the subject parcel be, and the same hereby is, modified to reflect a decrease to \$85,561.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellants.

DATED this 6th day of April , 2007.